

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MYRON GAYLORD BRANDON,

Plaintiff,

v.

STRANGE, et al., ,

Defendants.

Case No. 3:24-cv-05399-DGE-TLF

ORDER DENYING MOTION FOR  
EXTENSION OF TIME AND  
MOTION FOR APPOINTMENT OF  
COUNSEL

Plaintiff Myron Gaylord Brandon, a prisoner currently incarcerated at Washington State Penitentiary ("WSP"), proceeds *pro se* and *in forma pauperis* ("IFP") in this 42 U.S.C. § 1983 matter, which has been referred to the undersigned Magistrate Judge. *Mathews, Sec'y of H.E.W. v. Weber*, 423 U.S. 261 (1976); 28 U.S.C. § 636(b)(1)(B); Local Rule MJR 4(a). This matter is before the Court on plaintiff's motion for an extension of the deadline to file an amended complaint (Dkt. 100) and plaintiff's motion to appoint counsel (Dkt. 101). Defendants oppose both requests. Dkts. 102, 103, 104, 105.

BACKGROUND

In his second amended complaint – the current operative complaint -- plaintiff names the following as defendants: Eric L. Jackson, Deputy Assistant Secretary of the Department of Corrections ("DOC"); Jason Bennett, Superintendent at SCCC; and Gollr, medical doctor at the DOC. Dkt. 61 at 3.

1 In Count I of the second amended complaint, plaintiff alleges defendant Jackson  
2 violated his Eighth Amendment rights to adequate personal safety and medical care. *Id.*  
3 He alleges since he transferred from MCC/SOU to SCCC “H-5” on July 25, 2022, he  
4 has had placement in cells with sex offenders in four units. *Id.* at 4-5. Plaintiff alleges he  
5 wrote to defendant Jackson several times informing him about concerns for his health  
6 and safety and constitutionally inadequate prison conditions. *Id.* He states that  
7 defendant Jackson responded by denying plaintiff’s requests to transfer back to  
8 MCC/SOU/TRU or any minimum custody prison stating that prior to February 28, 2023,  
9 plaintiff did not qualify for such transfer. *Id.* Plaintiff claims he did qualify for the transfer.  
10 *Id.*

11 Plaintiff alleges in June 2024, the C.U.S. Mr. Jones forced plaintiff to cell with  
12 another inmate, James Berwick, who plaintiff appears to allege is white and has a racial  
13 bias against black and Hispanic individuals. *Id.* Plaintiff alleges on June 2, 2024, he  
14 received a “506 – serious infraction” for threatening Berwick “which is not true.” *Id.*  
15 Plaintiff alleges on July 11, 2024, defendant Jackson transferred him to Coyote Ridge  
16 Corrections Center (“CRCC”) at medium custody “knowing that prison had gang  
17 members, inadequate staff and no jobs.” *Id.* Plaintiff alleges the that because of his  
18 placements at CRCC he received five serious infractions. *Id.*

19 Plaintiff alleges he was injured in that he received inadequate safety and health  
20 care and denial of mental health treatment. *Id.*

21 In Count II, plaintiff alleges defendant Bennett violated his right to adequate  
22 health and safety under the Eighth Amendment. *Id.* at 6-7. Plaintiff alleges defendant  
23 Bennett violated this right by allowing him to be transferred to CRCC on July 11, 2024,  
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1 knowing that plaintiff had a September 2024 clemency hearing. *Id.* He alleges  
2 defendant Bennett's decision to allow him to be transferred failed to provide plaintiff with  
3 constitutionally adequate safety from other inmates and staff, caused him to receive five  
4 serious infractions, and contributed to his December 2024 clemency proceeding being  
5 denied after DOC staff reported to the Board. *Id.* Plaintiff also alleges he was prescribed  
6 medications he was allergic to, specifically Zoloft. *Id.*

7 In Count III, plaintiff alleges defendant Gollr, a doctor at SCCC, violated his right  
8 to adequate medical care. *Id.* at 7-8. Plaintiff alleges on March 1, 2023, plaintiff was  
9 taken by SCCC transport to see a new cardiologist for his six-month heart examination  
10 and consultation. *Id.* Plaintiff alleges the cardiologist directed that plaintiff return to his  
11 office in six months or in September 2023. *Id.* Plaintiff alleges it took over fifteen months  
12 to see the cardiologist. *Id.* He alleges that DOC had refused to allow him to visit the  
13 cardiologist on time. *Id.* He alleges DOC did not call to set the appointment despite the  
14 direction that he return to the cardiologist in six months. *Id.*

15 Although unclear, plaintiff appears to allege that defendant Gollr was responsible  
16 for him not being seen by the cardiologist again at six months. *Id.* He alleges his health  
17 services resolution complaints against Gollr and a CPN (Bonifer) were substantiated at  
18 Levels 1, 2 and 3. *Id.* He alleges defendant Gollr's reports regarding incidents since  
19 March 1, 2023, are not accurate and that he is not "in remission." *Id.* He alleges he  
20 takes psychotropic medications and needs to be examined by a cardiologist by  
21 December 2024. *Id.*

1 As relief, plaintiff seeks prosecution or demotion from DOC of defendants  
2 Jackson and Bennett. *Id.* at 9. He seeks an examination for his heart, blood, meds and  
3 compensation. *Id.* He also seeks an immediate transfer to MCC/SOU. *Id.*

4 In February 2025, the Court directed service of plaintiff's second amended  
5 complaint. Dkt. 58. Defendants filed an answer. Dkts. 80, 92. On July 29, 2025, the  
6 Court issued a pretrial scheduling order. Dkt. 99. As part of that pretrial scheduling  
7 order, the Court set a deadline of September 8, 2025, for the parties to file any motion  
8 to amend the pleadings. *Id.* The Court further stated that the deadlines in the pretrial  
9 scheduling order were firm and would not be extended except upon application to the  
10 Court with a showing of good cause. *Id.*

11 Plaintiff now moves for an extension of the deadline to move to amend the  
12 pleadings. Dkt. 100. Plaintiff has also filed a motion to appoint counsel. Dkt. 101.

### 13 DISCUSSION

#### 14 A. Motion for Extension of Time

15 Plaintiff moves for an extension of the September 8, 2025, deadline to file a  
16 motion to amend the pleadings. Dkt. 100. Plaintiff contends he is having difficulty with  
17 his mental health provider and classification counselor and indicates he may sign  
18 recusal forms to stop his mental health treatment. *Id.* Plaintiff indicates he is "constantly  
19 being denied transfer requests to MCC/SOU; this time for petty non-programming with a  
20 group[.]" *Id.*

21 Defendants oppose plaintiff's motion arguing that he has failed to show good  
22 cause for an extension of the deadline. Dkts. 102, 103.

1 The Court finds plaintiff has failed to show good cause for the extension of the  
2 deadline to move to amend his pleadings. He fails to explain how his generalized  
3 complaints about his mental health provider and classification counselor or the fact that  
4 he was recently denied transfer again to MCC/SOU are relevant to the original claims in  
5 his second amended complaint. Nor does he explain how these new complaints affect  
6 his ability to file a timely motion to amend his complaint. The Court also notes that  
7 plaintiff has also already had the opportunity to amend his complaint twice.

8 Accordingly, as plaintiff fails to show good cause for an extension of the deadline  
9 to move to amend the pleadings, his motion (Dkt. 100) is DENIED.

10 B. Motion to Appoint Counsel

11 Plaintiff also moves for appointment of counsel. Dkt. 101.

12 A plaintiff has no constitutional right to appointed counsel in an action under 42  
13 U.S.C. § 1983. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see also*  
14 *United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995)  
15 (“[a]ppointment of counsel under this section is discretionary, not mandatory.”). In  
16 “exceptional circumstances,” the Court may appoint counsel for indigent civil litigants  
17 pursuant to 28 U.S.C. § 1915(e)(1)). *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir.  
18 1997), *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998).

19 The Court must evaluate both “the likelihood of success on the merits [and] the  
20 ability of the petitioner to articulate his claims *pro se* in light of the complexity of the  
21 legal issues involved”, to make an assessment whether exceptional circumstances  
22 show that counsel should be appointed. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331  
23 (9th Cir. 1986) (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff  
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1 must plead facts that show he has an insufficient grasp of his case or the legal issue(s)  
2 involved, as well as an inadequate ability to articulate the factual basis of his claim.

3 *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

4 Although a *pro se* litigant may be better served with the assistance of counsel, that is  
5 not the test. *Rand*, 113 F.3d at 1525.

6 Plaintiff previously moved for appointment of counsel in this case twice and those  
7 motions were both denied. Dkts. 82, 98. Plaintiff first moved for appointment of counsel  
8 in this case in March of this year. Dkts. 59, 64. By order dated May 1, 2025, the Court  
9 denied plaintiff's first motion for counsel without prejudice. Dkt. 82. In that order the  
10 Court found that: plaintiff had not identified conditions that rendered this case  
11 extraordinary or set his circumstances apart significantly from those of other  
12 incarcerated litigants; that he had thus far demonstrated that he is able to file pleadings  
13 and motions in the case and the contents of those filings demonstrated a sufficient  
14 grasp of the legal issues involved, as well as an adequate ability to articulate the factual  
15 bases of his claims; and that in these early stages of the proceedings, plaintiff's claims  
16 did not appear to be complex, and the Court did not possess sufficient information for  
17 evaluating likelihood of success on the merits. *Id.*

18 In his second motion to appoint counsel, plaintiff simply requested counsel again  
19 but presented no argument in support of his request. Dkt. 91. By order dated July 28,  
20 2025, the Court denied the motion concluding that plaintiff had not shown the case  
21 presented extraordinary circumstances warranting appointment of counsel. Dkt. 98.

22 In his current motion to appoint counsel, plaintiff again simply requests  
23 appointment of counsel but presents no argument in support of the request. Dkt. 101.

1 Accordingly, the Court concludes that this case does not, currently, present  
2 extraordinary circumstances warranting the appointment of counsel. See *Wilborn*, 789  
3 F.2d at 1331. The Court therefore DENIES plaintiff's third motion for appointment of  
4 counsel (Dkt. 101) without prejudice.

5 CONCLUSION

6 For the foregoing reasons, plaintiff's motion for extension of the deadline to file  
7 motions to amend the pleadings (Dkt. 100) is DENIED and plaintiff's third motion to  
8 appoint counsel (Dkt. 101) is DENIED without prejudice.

9 The Clerk is directed to provide a copy of this order to plaintiff and counsel for  
10 respondent.

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12 Dated this 2nd day of September, 2025.

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Theresa L. Fricke  
16 United States Magistrate Judge  
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